

REMARKS

By this amendment, claims 1-4, 7-11, 14-18, 21-25, 28-32, and 35-40 are pending, in which claims 5, 6, 12, 13, 19, 20, 26, 27, 33, 34, 41, and 42 are canceled without prejudice or disclaimer, no claims are withdrawn from consideration, claims 1-4, 7, 8, 15, 22, 29, and 36 are currently amended, and no claims are newly presented. No new matter is introduced.

The Office Action mailed August 19, 2009 rejected claims 1-7 under 35 U.S.C. § 101 as being directed to non-statutory subject matter, claims 1-42 as obvious under 35 U.S.C. § 103 based on *Kitchen et al.* (US 6,289,322) in view of *Gafney* (“Practical Merchandising Math” article from National Retail Federation, 1996).

REJECTION OF CLAIMS 1-7 UNDER 35 U.S.C. § 101

The rejection of claims 1-7 under 35 U.S.C. § 101 is traversed.

Claims 1-7 have now been amended to clarify that it is a “**computer-implemented**” method that is being claimed, with independent claim 1 further clarifying that customer invoice information is retrieved from a **storage unit**, and the discount amount is calculated in a **processor**. The presence of these physical elements, or apparatus, makes it clear that the process, or method, claimed is tied to an apparatus, another statutory class of invention within the meaning of 35 U.S.C. § 101.

Accordingly, the Examiner is respectfully requested to withdraw the rejection of claims 1-7 under 35 U.S.C. § 101.

REJECTION OF CLAIMS 1-42 UNDER 35 U.S.C. § 103

The rejection of claims 1-42 under 35 U.S.C. § 103 based on *Kitchen et al.* in view of *Gafney* is traversed.

Claims 5, 6, 12, 13, 19, 20, 26, 27, 33, 34, 41, and 42 have now been canceled, their features of “determining whether criteria for receiving the discount amount are satisfied for a corresponding customer,” selectively applying the discount amount based upon the determining step,” and “wherein the criteria in the determining step include maintaining a zero outstanding charge by the customer,” or similar features, now incorporated into the independent claims.

The Office Action contends that these features are disclosed in *Gafney* in that the determination step is the determination of whether payment has been made before the last day permitted for the discount, with the criteria being payment before the deadline. Assuming, *arguendo*, that this is a reasonable interpretation of *Gafney*, the reference still does not disclose or suggest that the criteria in the determining step includes “maintaining a zero outstanding charge by the customer.” The Office Action asserts that “paying off invoice payment amount” (Office Action-page 8) is a disclosure of the determining step including “maintaining a zero outstanding charge by the customer.” Applicants respectfully disagree.

There is no disclosure or suggestion in *Gafney* of the determining step including “maintaining a zero outstanding charge by the customer.” *Gafney* discloses that a cash discount may be given if an invoice is paid early in order to provide an incentive to the customer to remit early payment, before a predetermined due date. But the discount in *Gafney* is based solely on the customer paying before the predetermined date. There is no disclosure or even a glimmer of a suggestion in *Gafney* of setting a criteria for determining whether a discount will be applied,

other than an early payment being made, and that that criteria includes the customer “maintaining a zero outstanding charge by the customer.” In *Gafney*, every customer is eligible for the early payment discount, so long as the customer sends payment before the end of the predetermined time period. But, unlike the instant claimed subject matter, *Gafney* does not employ a criteria, including “maintaining a zero outstanding charge by the customer” to determine if the customer is eligible to participate in the discount for early payment program. The subject matter of the instant claims requires that a customer maintain a zero outstanding charge before that customer is eligible for the discount. If the customer is not so eligible, then early payment will not net the customer a discount. This is contrary to the disclosure of *Gafney*.

Kitchen et al., of course disclose no discounts of any kind, let alone based on the claimed criteria, and do not fill in the gaps of *Gafney*. Accordingly, no *prima facie* case of obviousness has been established with regard to the claimed subject matter, as now amended.

Therefore, the Examiner is respectfully requested to withdraw the rejection of claims 1-42 under 35 U.S.C. § 103.

Therefore, the present application, as amended, overcomes the rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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October 26, 2009
Date

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